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Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Sixty-eighth year

Report of the International Tribunal for the Former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council the twentieth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, submitted by the President of the International Tribunal in accordance with article 34 of the statute of the Tribunal (see S/25704 and Corr.1, annex) which states that:

> The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly.

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Letter of transmittal

2 August 2013

I have the honour to submit the twentieth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, dated 2 August 2013, to the General Assembly and the Security Council, pursuant to article 34 of the statute of the International Tribunal.

(*Signed*) Theodor **Meron**
President

President of the General Assembly
United Nations
New York

President of the Security Council
United Nations
New York

Twentieth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Summary

The twentieth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 covers the period from 1 August 2012 to 31 July 2013.

The Tribunal continued to focus on the completion of all trials and appeals, rendering 13 trial, appeal and contempt judgements. All 161 indicted individuals have been accounted for and, at the close of the reporting period, 21 persons were in appeal proceedings or had been granted extensions to file their notices of appeal, while four persons were on trial. The report details the activities of the Tribunal during the reporting period and demonstrates the Tribunal's commitment to completing its proceedings as soon as possible, without sacrificing due process. However, as appeals in the *Prlić et al.* case will fall under the jurisdiction of the Tribunal, appellate work at the Tribunal is now projected to continue until mid-2017.

The President continued his efforts to streamline procedures and to improve the pace of the Tribunal's work. In particular, he encouraged the Security Council to ensure that the Tribunal had a full complement of judges in order to prevent any potential delays caused by the increased workload of the Appeals Chamber. Staff attrition remained a serious challenge to the work of the Tribunal.

With the valuable assistance of the Office of Legal Affairs of the Secretariat and the Security Council Informal Working Group on International Tribunals, the Tribunal coordinated a smooth transition of functions to the International Residual Mechanism for Criminal Tribunals. On 1 July 2013, the Hague Branch of the Mechanism began operating, following the successful launch of the Arusha Branch on 1 July 2012.

During the reporting period the Tribunal continued to make significant contributions to both the development of legal norms of international criminal law and procedure, and to the maintenance of peace and stability in the States of the former Yugoslavia. The Tribunal's success is underlined by the fact that all 161 indictees are accounted for, and by the Tribunal's reputation for procedural fairness and impartiality.

The Office of the Prosecutor made progress towards the completion of the Tribunal's mandate at both the trial and appellate levels. The Office of the Prosecutor continued to develop working relationships with the authorities of the States of the former Yugoslavia to encourage cooperation with the Tribunal and to support domestic war crimes prosecutions.

Under the authority of the President, the Registry provided administrative and judicial support to the Tribunal, coordinating a wide range of legal, policy and operational matters. The Registry also coordinated practical arrangements necessary for the transfer of responsibilities to the Mechanism.

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I. Introduction

1. The twentieth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 outlines the activities of the Tribunal for the period from 1 August 2012 to 31 July 2013.

2. During the reporting period, the Tribunal continued to implement its completion strategy as endorsed by the Security Council in resolution 1503 (2003) and to focus on ensuring that trial and appeal proceedings were not delayed. At the close of the reporting period, 21 persons were in appeal proceedings or had been granted extensions to file notices of appeal, and four persons were on trial. The Trial Chambers delivered judgements in the *Haradinaj et al.*, *Prlić et al.*, *Stanišić and Simatović*, *Stanišić and Župljanin*, and *Tolimir* cases. Appeals arising from all of these cases except for *Haradinaj et al.* are now pending before the Tribunal. The Appeals Chamber delivered judgements in the *Gotovina and Markač*, *Lukić and Lukić*, and *Perišić* cases, and in the Prosecution's appeal against the acquittal of Mr. Karadžić pursuant to rule 98 bis of the Rules of Procedure and Evidence of the Tribunal. A contempt trial judgement was delivered in the *Krstić* case, and contempt appeal judgements were delivered in the *Rašić* case and in two cases arising from the *Šešelj* trial proceedings. The Tribunal has concluded proceedings against 136 of the 161 persons indicted by the Tribunal. There are no outstanding indictments for violations of core statutory crimes.

3. The Registrar, John Hocking, was reappointed by the Secretary-General, in consultation with the President of the Tribunal, on 17 April 2013 with effect from 15 May 2013. The President, Judge Theodor Meron, and the Prosecutor, Serge Brammertz, continued to fulfil their duties at the Tribunal.

4. Various measures were taken during the reporting period to ensure that the Tribunal operated as efficiently as possible while preserving the highest levels of procedural fairness. Those efforts included coordination with the Security Council to ensure that the Tribunal was assigned its full complement of judges in order to address any potential delays caused by the Appeals Chamber's increased workload.

5. The pace of the Tribunal's trials and appeals continued to be affected by staffing shortages and the loss of highly experienced staff members. Despite resolutions adopted by the General Assembly and the Security Council on the issue of staff retention, this problem persisted throughout the reporting period.

II. Activities involving the entire Tribunal

A. President

6. The President oversaw the Tribunal's work, focusing on the judicial responsibilities of his office and on initiatives aimed at the timely completion of trials and appeals. He also pursued capacity-building and legacy projects and met with Governments and international organizations.

1. Clarifying procedures and strengthening the Appeals Chamber

7. During the reporting period, the Tribunal amended rule 33 bis of the Rules in order to clarify the functions of the Deputy Registrar. Rule 33 ter of the Rules was adopted to designate the functions of the Head of Chambers. The Tribunal amended rule 69 of the Rules to allow both the Prosecutor and defence counsel to apply for an order of non-disclosure concerning the identity of a victim or witness in certain circumstances and to provide trial chambers with more flexibility in determining when the identity of such a victim or witness shall be disclosed. Lastly, rule 126 of the Rules was amended to clarify that the time for doing an act after the filing of a relevant document shall begin to run as from the date that the document is distributed.

8. The President coordinated closely with judges of the Tribunal, the Office of Legal Affairs, and the Security Council Working Group to reduce the risk of delays in trials and appeals. Among other efforts, the President closely monitored the progress of cases and proactively assigned additional legal staff to teams requiring assistance. The President actively worked to prevent any potential delays caused by the Appeals Chamber's increased workload. In particular, the President sought a rapid replacement for Appeal Judge Andrésia Vaz (Senegal), who demitted office on 31 May 2013. The President also noted that, although the Security Council anticipated and planned for the shift from trial to appeals work by authorizing the redeployment of four permanent trial judges to the Appeals Chamber, such redeployments were prevented by the ongoing trials of late-arrested accused. In response the Security Council determined to return the Tribunal to its full complement of judges through election of a replacement judge to be assigned to the Appeals Chamber.

2. Capacity-building and legacy

9. The Tribunal continued working with the Organization for Security and Cooperation in Europe (OSCE) on the second phase of the War Crimes Justice Project. This project included skills training for judges, prosecutors and defence lawyers in the former Yugoslavia. In addition, the Tribunal participated in peer-to-peer meetings for judges and witness support services in the region.

10. The Tribunal also continued working with local authorities and international partners to establish information centres in the former Yugoslavia. In Bosnia, the Mayor of Sarajevo, with the support of Bosniak and Bosnian Croat members of the Presidency, has pledged space for an information centre in the renovated National Library in Sarajevo. The Bosnian Serb members of the Presidency also indicated support for the Sarajevo information centre, as well as for the establishment of a centre in Banja Luka. The Tribunal is awaiting further information from the authorities in Banja Luka with regard to the premises and other resources that they would provide for the project. In Croatia, the authorities informed the Tribunal that an information centre could be hosted on the premises of the University of Zagreb should the decision be made to establish a centre in Croatia. Initiatives in both countries will require external funding and support.

11. In May 2013, to mark the twentieth anniversary of its establishment by the Security Council in its resolution 827 (1993), the Tribunal hosted a ceremony in The Hague attended by many dignitaries, including His Majesty King Willem-Alexander of the Netherlands and the Under-Secretary-General for Legal Affairs, Patricia

O'Brien. The Tribunal is also planning a conference to be held in Sarajevo later in 2013, to which representatives from all States of the former Yugoslavia will be invited.

3. Relations with Governments and international organizations

12. Throughout the reporting period the President conducted missions to several States, during which he provided briefings on the Tribunal's work, the implementation of the completion strategy, the transition to the International Residual Mechanism, and challenges facing the Tribunal. The President undertook such visits to the United Kingdom from 28 September to 1 October 2012 and again from 6 to 11 March 2013, to the United States on 18 and 19 October 2012, to Canada from 23 to 27 October 2012, to France on 21 January 2013, and to China from 30 May to 1 June 2013. In addition, from 13 to 16 May 2013, the President joined a visit to St. Petersburg organized by the city of The Hague in conjunction with leaders of international institutions based in The Hague.

13. The President also made presentations regarding the Tribunal's work to the principal organs of the United Nations. On 15 October 2012, the President addressed the General Assembly regarding the Tribunal's nineteenth annual report (see A/67/PV.24). On 5 December 2012, the President addressed the Security Council to present the Tribunal's eighteenth completion strategy report (see S/PV.6880). On 12 June 2013, the President addressed the Security Council regarding the Tribunal's nineteenth completion strategy report (see S/PV.6977).

14. Various representatives of Governments and judiciaries visited the Tribunal during the reporting period and met with the President, judges and other officials to learn about the Tribunal's achievements, challenges and ongoing work. Such visitors included the Minister of Justice of Serbia, Nikola Selaković, who met with the President on 17 January 2013. On 31 January the Tribunal also welcomed judges and other officials from Albania, Turkey and various States of the former Yugoslavia. On 28 May 2013, the Chief Parliamentary Ombudsman of Sweden, Elisabet Fura, visited the Tribunal, and the President of Germany, Joachim Gauck, visited on 30 May 2013. From 24 to 28 June 2013, the Tribunal welcomed a group of French judges and prosecutors. The Tribunal was also visited by judges and court reporters from Croatia on 16 and 17 July 2013.

4. Judicial activity

15. The statute of the Tribunal, the Rules and the Practice Directions confer upon the President certain judicial functions, and in carrying out such duties the President issued numerous orders assigning cases to Chambers, and reviewed several decisions of the Registrar. The President also considered 14 requests for pardon, commutation of sentence, transfer and early release of persons convicted by the Tribunal, granting 11 such requests and rejecting 3.

5. Transition to the International Residual Mechanism for Criminal Tribunals

16. The Hague branch of the International Residual Mechanism for Criminal Tribunals commenced operations on 1 July 2013. The President has taken active steps to ensure a smooth handover of functions to the Mechanism, liaising with internal and external stakeholders, and facilitating the development of necessary practices and procedures.

B. Bureau

17. Pursuant to rule 23 of the Rules, the Bureau is composed of the President, the Vice-President and the presiding judges of the Trial Chambers. During the reporting period the President consulted the Bureau on requests for pardon, commutation of sentence and early release of convicted persons serving their sentences. The Bureau also advised the President on general policy matters relevant to the Tribunal.

C. Coordination Council

18. Pursuant to rule 23 bis of the Rules, the Coordination Council consists of the President, the Prosecutor and the Registrar. The Council held several meetings during the reporting period to discuss, inter alia, archives, budgetary concerns, and ensuring a smooth transition to the Mechanism.

D. Plenary sessions

19. During the reporting period, the judges held one plenary session, on 20 November 2012.

E. Rules Committee

20. The judicial membership of the Rules Committee comprises Vice-President Carmel Agius (Chair), President Theodor Meron, and Judges Christoph Flügge, Alphons Orie and O-Gon Kwon. The non-voting members include the Prosecutor, the Registrar and a representative of the Association of Defence Counsel. During the reporting period, the Rules Committee met twice, on 28 January and 9 April 2013, to discuss proposals to the Rules and make recommendations to the judges.

III. Activities of the Chambers

A. Composition of the Chambers

21. Twenty-two judges from 21 countries currently serve at the Tribunal. The Chambers are currently composed of 13 permanent tribunal judges, 5 permanent judges of the International Criminal Tribunal for Rwanda serving in the Appeals Chamber, and 4 ad litem judges.

22. The Tribunal's permanent judges are Theodor Meron (President, United States of America), Carmel Agius (Vice-President, Malta), Christoph Flügge (Germany), Alphons Orie (Netherlands), O-Gon Kwon (Republic of Korea), Patrick Robinson (Jamaica), Fausto Pocar (Italy), Liu Daqun (China), Jean-Claude Antonetti (France), Bakone Justice Moloto (South Africa), Burton Hall (Bahamas), Howard Morrison (United Kingdom of Great Britain and Northern Ireland), and Guy Delvoie (Belgium). The permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber are Mehmet Güney (Turkey), and, following their redeployment from the Trial Chamber of the International Criminal Tribunal for Rwanda to the Appeals Chamber, Arlette Ramaroson (Madagascar),

effective 22 September 2011, Khalida Rachid Khan (Pakistan), effective 1 March 2012, Bakhtiyar Tuzmukhamedov (Russian Federation), effective 29 June 2012, and William Hussein Sekule (United Republic of Tanzania), effective 10 March 2013. Andrésia Vaz (Senegal), a permanent judge of the International Criminal Tribunal for Rwanda, served in the Appeals Chamber during the reporting period but demitted office on 31 May 2013.

23. The Tribunal's ad litem judges are Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), Frederik Harhoff (Denmark), Flavia Lattanzi (Italy) and Melville Baird (Trinidad and Tobago). Prisca Matimba Nyambe (Zambia) served as an ad litem judge during the reporting period but left the Tribunal on 18 December 2012 upon completing her mandate. Árpád Prandler (Hungary) and Stefan Trechsel (Switzerland) served as ad litem judges during the reporting period but left the Tribunal on 7 June 2013 upon completing their mandates. Elizabeth Gwaunza (Zimbabwe) and Michèle Picard (France) served as ad litem judges during the reporting period, but left the Tribunal on 8 June 2013 upon completing their mandates.

24. At the close of the reporting period, the Trial Chambers were composed of Judges Flügge (presiding), Orie (presiding), Kwon (presiding), Antonetti, Moloto, Hall, Morrison, Delvoie, Mindua, Harhoff, Lattanzi and Baird.

25. At the close of the reporting period, the Appeals Chamber was composed of Judges Meron (presiding), Agius, Sekule, Robinson, Güney, Pocar, Liu, Ramaroson, Khan and Tuzmukhamedov.

B. Principal activities of the Chambers

26. There were no pretrial cases pending before Trial Chambers at the end of the reporting period.

1. Trial Chamber I

Mladić

27. Ratko Mladić is charged with 11 counts of genocide, crimes against humanity, and violations of the laws or customs of war, all in relation to acts allegedly committed in Bosnia and Herzegovina between 12 May 1992 and 30 November 1995. The Trial Chamber is composed of Judges Orie (presiding), Flügge and Moloto. The trial commenced on 16 May 2012, and the judgement is expected in July 2016.

Stanišić and Simatović

28. The judgement was rendered on 30 May 2013. The Trial Chamber, composed of Judges Orie (presiding), Picard and Gwaunza, acquitted Jovica Stanišić and Franko Simatović on all counts in the indictment.

2. Trial Chamber II

Goran Hadžić

29. Goran Hadžić is charged with 14 counts of crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed

in Croatia and Serbia between 25 June 1991 and December 1993. The Trial Chamber is composed of Judges Delvoie (presiding), Hall and Mindua. The trial commenced on 16 October 2012, and the judgement is expected in December 2015.

Haradinaj et al.

30. The judgement was rendered on 29 November 2012. The Trial Chamber, composed of Judges Moloto (presiding), Hall and Delvoie, acquitted Ramush Haradinaj, Idriz Balaj and Lahij Brahimaj on all counts in the indictment.

Tolimir

31. The judgement was rendered on 12 December 2012. The Trial Chamber, composed of Judges Flügge (presiding), Mindua and Nyambe, found Zdravko Tolimir guilty of genocide, conspiracy to commit genocide, crimes against humanity, and a violation of the laws or customs of war. Tolimir was sentenced to life imprisonment.

Stanišić and Župljanin

32. The judgement was rendered on 27 March 2013. The Trial Chamber, composed of Judges Hall (presiding), Delvoie and Harhoff, found Mićo Stanišić and Stojan Župljanin guilty of crimes against humanity and violations of the laws or customs of war. Stanišić and Župljanin were each sentenced to 22 years of imprisonment.

3. Trial Chamber III

Karadžić

33. Radovan Karadžić is charged with 11 counts of genocide, crimes against humanity, and violations of the laws or customs of war, all in relation to acts allegedly committed in Bosnia and Herzegovina between 1992 and 1995. The Trial Chamber is composed of Judges Kwon (presiding), Morrison, Baird and Lattanzi (reserve). The trial commenced on 26 October 2009, and is currently in the defence stage of the case, which commenced on 16 October 2012. The judgement is expected in July 2015.

Prlić et al.

34. The judgement was rendered on 29 May 2013. The Trial Chamber, composed of Judges Antonetti (presiding), Prandler, Trechsel and Mindua (reserve) found Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić guilty of crimes against humanity, violations of the laws or customs of war, and grave breaches of the Geneva Conventions. Prlić was sentenced to 25 years of imprisonment; Stojić, Praljak and Petković were each sentenced to 20 years of imprisonment; Ćorić was sentenced to 16 years of imprisonment; and Pušić was sentenced to 10 years of imprisonment.

Šešelj

35. Vojislav Šešelj is charged with nine counts of crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed in Croatia, Bosnia and Herzegovina and Vojvodina (Serbia) between August 1991 and September 1993. The Trial Chamber is composed of Judges Antonetti

(presiding), Harhoff and Lattanzi. Trial proceedings concluded on 20 May 2012 and the Chamber is now in the process of conducting deliberations and preparing the judgement. On 15 April 2013, the Chamber filed a scheduling order setting the date for the pronouncement of the judgement as 30 October 2013.

Krstić

36. The contempt judgement was rendered on 18 July 2013. The Trial Chamber, composed of Judges Baird (presiding), Kwon, Morrison and Lattanzi (reserve), found Krstić not guilty of contempt.

4. Rule 11 bis Referral Bench

37. The Rule 11 bis Referral Bench has transferred all low- and mid-level accused from its trial docket in accordance with Security Council resolution 1503 (2003). During the reporting period the Rule 11 bis Referral Bench issued a confidential decision in relation to a previously referred case.

5. Specially Appointed Chamber (rule 75 (H) and (G), rule 75 bis and rule 75 ter)

38. The Specially Appointed Chamber has issued 31 decisions and orders, deciding on applications filed by third parties for access to confidential information and evidence from 12 cases.

6. Principal activities of the Appeals Chamber

(a) Interlocutory appeals

39. The Appeals Chamber issued two decisions on interlocutory appeals, in the cases of *Karadžić* and *Prlić et al.*

(b) Contempt appeals

40. In the case of *Prosecutor v. Vojislav Šešelj*, the Appeals Chamber rendered contempt appeal judgements on 28 November 2012 and 30 May 2013 (cases No. IT-03-67-R77.3-A and No. IT-03-67-R77.4-A).

(c) Appeals on the merits

41. The Appeals Chamber rendered three final judgements during the reporting period.

42. In the case of *Prosecutor v. Ante Gotovina and Mladen Markač*, the appeal judgement was rendered on 16 November 2012. The Appeals Chamber reversed both appellants' convictions.

43. In the case of *Prosecutor v. Milan Lukić and Sredoje Lukić*, the appeal judgement was rendered on 4 December 2012. The Appeals Chamber reversed certain of Sredoje Lukić's convictions and reduced his sentence to 27 years' imprisonment; rejected all of Milan Lukić's grounds of appeal and affirmed his life sentence; and declined to grant the prosecution's grounds of appeal.

44. In the case of *Prosecutor v. Momčilo Perišić*, the appeal judgement was rendered on 28 February 2013. The Appeals Chamber reversed all of Perišić's convictions.

45. In addition, on 11 July 2013, the Appeals Chamber rendered a judgement in the prosecution's appeal of a partial acquittal, entered pursuant to rule 98 bis of the Rules, in the case of *Prosecutor v. Radovan Karadžić*. The Appeals Chamber reversed Karadžić's acquittal and remanded the matter to the Trial Chamber.

46. Three Appeals Chamber cases discussed in the previous annual report — *Prosecutor v. Nikola Šainović et al.*, *Prosecutor v. Vujadin Popović et al.*, and *Prosecutor v. Vlastimir Đorđević* — are still pending before the Appeals Chamber. Appeals from judgement in four additional cases were filed before the Appeals Chamber during the reporting period, in *Prosecutor v. Jadranko Prlić et al.*, *Prosecutor v. Jovica Stanišić and Franko Simatović*, *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, and *Prosecutor v. Zdravko Tolimir*. Appeal hearings were held in the *Šainović et al.* and *Đorđević* cases, and judgements in these two cases are forecast by the end of 2013. Pre-appeal activity is ongoing in the remaining cases pending before the Appeals Chamber.

47. A notice of appeal in the case of *Prosecutor v. Jadranko Prlić et al.* was filed prior to 1 July 2013. Accordingly, the Tribunal will retain jurisdiction over this appeal. The judgement in this appeal is forecast for mid-2017, at which point the Tribunal is expected to have completed its judicial work.

48. A total of 92 pre-appeal decisions and orders were issued during the reporting period.[1]

49. The Chamber is currently seized of two applications for review. The first was filed by Sredoje Lukić, of the appeal judgement in the case of *Prosecutor v. Milan Lukić and Sredoje Lukić*. The second was filed by defence counsel for the late Rasim Delić, of the trial judgement in the case of *Prosecutor v. Rasim Delić*.

IV. Activity of the Office of the Prosecutor

A. Completion of trials and appeals

50. During this reporting period, the Office of the Prosecutor has made substantial advances in finalizing its trial work and managing an intense appellate caseload, while preparing for the transition and transfer of its functions to the International Residual Mechanism for Criminal Tribunals.

51. In this period, judgements were issued in five trials (*Haradinaj et al.*, *Tolimir*, *Stanišić and Župljanin*, *Prlić et al.*, and *Stanišić and Simatović*), four appeals (*Lukić and Lukić*, *Gotovina and Markač*, *Perišić and Karadžić* (rule 98 *bis* appeal)) and three contempt cases (*Krstić*, *Rašić* and *Šešelj*). At the end of this reporting period two cases are in the prosecution evidence presentation phase (*Hadžić* and *Mladić*); one case is in the defence evidence presentation phase (*Karadžić*); and one case is awaiting judgement at the Trial Chamber level (*Šešelj*). In addition, seven cases are on appeal (*Popović et al.*, *Šainović et al.*, *Đorđević*, *Tolimir*, *Stanišić and Župljanin*, *Prlić et al.*, and *Stanišić and Simatović*). In addition, the Office of the Prosecutor has responded to defence motions for review and for reconsideration of final judgement in the *Delić* and *Sredoje Lukić* cases, respectively.

[1] This figure includes orders and decisions filed as at 30 July 2013.

52. While approaching the end of its mandate, the Office of the Prosecutor is busier than ever with some of the most significant cases yet prosecuted before the Tribunal. By using written evidence in place of live testimony, the Office of the Prosecutor has achieved significant savings in court time. As a result of these measures, however, the three remaining trials are proceeding at an intense pace, placing considerable additional strain on the trial team members, on top of the strain already imposed by staff attrition. Crucial support to trial work has been provided by the Appeals Division to minimize the impact of the loss of key personnel on the conduct of trials; however, with seven appeals under way, the resources of the Appeals Division are being severely stretched.

B. Cooperation

53. The Tribunal continued to rely on the full cooperation of States to fulfil its mandate. The cooperation of States of the former Yugoslavia remains important and is primarily focused on day-to-day support for ongoing trials and appeals. The Office of the Prosecutor continued to promote and assess cooperation between the Tribunal and the countries of the former Yugoslavia, and the Prosecutor continued to foster working relations with national prosecutors. In October 2012, and again in April and May 2013, the Prosecutor met with officials and/or prosecutors in Brijuni, Sarajevo and Belgrade to discuss cooperation and other issues of mutual relevance.

1. Cooperation of Serbia

54. Serbia continued to play an important role in ensuring the successful completion of the work of the Office of the Prosecutor. During meetings in Belgrade, representatives of the Government of Serbia reiterated their previous assurances that they would continue cooperating with the Office. Serbia has shown continued diligence in processing the requests of the Office for assistance, and has adequately facilitated its access to witnesses, including by facilitating the appearance of witnesses before the Tribunal. The Office of the Prosecutor will continue to request Serbia's cooperation in support of its ongoing casework in the months to come.

55. Following the arrests of the last of the Tribunal's fugitives, Mladić and Hadžić, Serbia undertook to provide the Office of the Prosecutor with comprehensive information explaining how a number of those fugitives evaded justice for so long prior to their capture, as well as to investigate and prosecute individuals who assisted in harbouring the fugitives. During the Prosecutor's visit to Belgrade in September 2012, the Serbian Prosecutor for War Crimes presented additional and more detailed information on the progress concerning investigation of the fugitive networks. The pace of investigations has finally increased, producing results in some areas. Serbia's work on the fugitive networks is ongoing and the Serbian authorities are encouraged to ensure that this issue is finalized in a prompt and effective manner.

2. Cooperation of Croatia

56. Over the course of the reporting period, the Croatian authorities provided timely and adequate responses to day-to-day requests of the Office of the Prosecutor

for assistance, and facilitated access to witnesses and evidence as required. The Office will continue to rely on Croatia's cooperation in upcoming trials and appeals.

3. Cooperation of Bosnia and Herzegovina

57. During this reporting period, the authorities of Bosnia and Herzegovina responded promptly and adequately to most of the requests of the Office of the Prosecutor for documents as well as access to government archives. The authorities also provided valuable assistance with witness protection matters and facilitated the appearance of witnesses before the Tribunal. The Office will continue to rely on Bosnia and Herzegovina's cooperation in upcoming trials and appeals.

58. The Office of the Prosecutor remains concerned, however, about the slow pace of the investigation and prosecution of category II cases transferred by the Office to Bosnia and Herzegovina. Only 4 of the 13 cases transferred between June 2005 and December 2009 have been completed, and the announced date of December 2013 for completion of the category II cases will not be met. During the Prosecutor's meetings with the new Chief Prosecutor in Sarajevo in April 2013, the Chief Prosecutor indicated that his office would increase efforts to address the issue. The Prosecutor agreed to return to Bosnia and Herzegovina in the following months to discuss practical steps that could be taken with a view to completing the category II cases. The Office of the Prosecutor also hopes that the authorities of Bosnia and Herzegovina will finalize investigations arising out of material transferred to them by the Office concerning crimes documented in cases before it, but which did not form part of indictments by the Tribunal.

4. Cooperation between States of the former Yugoslavia in judicial matters

59. The Office of the Prosecutor continued to promote improved cooperation and collaboration between Serbia, Bosnia and Herzegovina and Croatia in war crimes matters, which is essential for combating impunity in the former Yugoslavia. The Office also fostered productive working relationships between regional prosecutors. The prosecutor's office of Bosnia and Herzegovina signed protocols on the exchange of evidence and information in war crimes cases with the prosecutor's offices in Serbia and Croatia on 31 January 2013 and 3 June 2013 respectively. If properly implemented, the protocols could pave the way for the transfer of evidence between the signatories and offer practical solutions to problems such as parallel investigations. The Office of the Prosecutor encourages the respective authorities to continue to take the steps necessary to implement the relevant agreements.

60. However, the Office of the Prosecutor remained concerned about the serious challenges that remain in coordinating the activities of judicial institutions across the region. For example, legal barriers to the extradition of suspects continue to obstruct effective investigations. Urgent action is needed by political and legal authorities in the region to promote and strengthen regional cooperation in war crimes cases. Improved regional cooperation in tackling organized crime provides an important precedent, as evidenced by the agreement between Croatia and Serbia on extraditing their nationals regarding organized crime matters.

5. Cooperation of other States and organizations

61. Support from States outside of the former Yugoslavia, and international organizations, remains important to the successful completion of the Tribunal's

mandate. To progress its casework expeditiously, the Office of the Prosecutor must continue to access the wealth of information held in the archives and other institutions of United Nations Member States. The Office acknowledges the assistance it received from the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization, OSCE, the Council of Europe and non-governmental organizations, including those active in the former Yugoslavia.

C. Effective implementation of national war crimes strategies

62. As the Tribunal moves closer to the completion of its mandate, the Office of the Prosecutor remains committed to promoting effective war crimes prosecutions in the former Yugoslavia. During this reporting period, the Office continued to provide information to assist national jurisdictions in prosecuting crimes arising out of the conflict in the former Yugoslavia, the volume of requests received increasing from the previous period. The joint European Union/Tribunal "liaison prosecutors" project, in its fourth year of operation, continued to form a central component of the Office's strategy to strengthen the capacity of national criminal justice systems in the former Yugoslavia for war crimes cases.

63. Serious issues remained, however, particularly regarding the implementation of the national war crimes strategy in Bosnia and Herzegovina. While a few hundred cases were transferred from the State to entity judicial organs, the Office of the Prosecutor did not receive any requests for assistance from the entity-level authorities and there has been little progress in processing cases at the entity level. As limited progress has been made, a considerable backlog remains, such that the authorities of Bosnia and Herzegovina have little or no prospect of meeting the 2015 deadline imposed as part of the strategy.

64. Comprehensive measures and a commitment to radical improvements are required to make the strategy effective, including the appointment of additional entity prosecutors and other qualified personnel, as well as the provision of adequate resources, including to overcome witness protection problems. The Office of the Prosecutor strongly encourages the responsible authorities to make the necessary resources available.

V. Activity of the Registry

65. During the reporting period, the Registry provided judicial, diplomatic, operational and administrative support for the Tribunal. The Registry also managed the Tribunal's Outreach Programme.

A. Office of the Registrar

66. The Immediate Office of the Registrar supported the Registrar in his overall responsibility of directing the Registry, including supervising all Registry sections and representing the Tribunal in its relations with the host State, embassies and ministries, the United Nations and other international organizations.

67. The Immediate Office of the Registrar also assisted the Registrar in formulating and implementing the Registry strategic priorities, proactively

streamlining operational procedures to reflect the continuing shift in the Tribunal's activities from trials to appeals and the transition from the Tribunal to the International Residual Mechanism for Criminal Tribunals.

68. In accordance with the Tribunal's completion strategy, the Immediate Office of the Registrar has, together with the Division of Administration, continued implementing the established downsizing process for the reduction of posts. The Office also assisted the Registrar in conceptualizing the restructuring of the Judicial Support Division, which is to be implemented in the next budget cycle.

69. The Immediate Office of the Registrar supported the Registrar in managing the Arusha Branch of the Mechanism and preparing for the commencement of Mechanism operations in The Hague on 1 July 2013. This involved providing substantial administrative and legal support, harmonizing Tribunal and Mechanism budget submissions, recruiting staff, and developing judicial support policies and procedures for the Mechanism.

70. In preparation for the transfer of records and archives to the Mechanism, all Registry sections cooperated with the Mechanism Archives and Records Section, which operates a central records centre for the non-judicial records of the Tribunal. Together with the Immediate Office of the Registrar, the Section drafted an emergency response and disaster recovery plan for the Tribunal's physical records repositories, prepared relevant guidelines, and provided training to staff to ensure the efficient and effective implementation of the Secretary-General's bulletin on international criminal tribunals: information sensitivity, classification, handling and access (ST/SGB/2012/3).

71. The Communications Service ensured that journalists had access to accurate and up-to-date information regarding the Tribunal's judicial activities, as well as relevant audiovisual materials for use in their reports. A number of high-profile media projects completed during the reporting period increased the visibility of the Tribunal's work internationally. Interest in the Tribunal remained high, with visits from over 8,500 individuals, including approximately 315 from the former Yugoslavia. The Communications Service also promoted media coverage of the Tribunal's twentieth anniversary and the launch of the Hague Branch of the Mechanism.

72. The Tribunal continued to expand its presence on social media platforms. On a monthly basis, the contents posted on the Tribunal's Facebook page garnered between 10,000 and 30,000 views. Viewers from the former Yugoslavia constituted about 30 per cent of the audience. The Tribunal's Twitter account has also shown steady growth in its audience. The Tribunal's YouTube channel now has a total of 1.5 million views for its 1,625 videos, 50 per cent of whom are from the former Yugoslavia.

73. The Outreach Programme continued to promote the rule of law in the former Yugoslavia by delivering factual information about the Tribunal's work and legacy, thus stimulating debate in the region about wider issues of justice, transitional justice mechanisms, and post-conflict recovery. As a part of these efforts, the Outreach Programme organized two regional legacy conferences, one in Bosnia and Herzegovina and one in Croatia, and launched the second phase of a youth outreach effort in high schools and universities in Bosnia and Herzegovina, Croatia, Montenegro and the former Yugoslav Republic of Macedonia, reaching a total of

1,650 young people. The Outreach Programme also produced a documentary about the Tribunal's work in relation to crimes committed in the municipality of Prijedor in Bosnia and Herzegovina, and hosted a series of premieres and round-table debates about the film in the region.

74. The Tribunal's field offices in Belgrade and Sarajevo continued liaison and outreach activities throughout the reporting period. The field offices in Zagreb and Pristina were closed at the end of 2012, in line with the completion strategy. Together, those offices organized approximately 30 outreach events during the reporting period, reaching more than 2,750 individuals. In preparation for the launch of the Mechanism in The Hague, promotional activities on its role and functions were organized in Belgrade and Sarajevo for representatives of local judiciaries and non-governmental organizations.

75. The Outreach Programme continues to rely entirely on external funding. While resources to support activities in 2013-2014 have been secured from a new European Union funding source, the funding will suffice for only half of the two-year programme. Pursuant to General Assembly resolution 65/253, the Outreach Programme will continue its fundraising efforts. The Tribunal respectfully calls upon States and other donors to continue and increase support for outreach activities at this critical junction of the Tribunal's mandate.

B. Judicial Support Division

76. During the reporting period, the Court Management and Support Services Section supported nine cases at trial, 11 cases on appeal, and four contempt cases,[2] including support for 11 videoconference links and 11 rule 92 bis missions. It also assisted three self-represented accused through its *pro se* office, resolving various issues arising in the course of their proceedings. As at 31 July 2013, the Section had processed 8,774 filings (approximately 248,505 pages) submitted by parties and others in proceedings before the Tribunal. The Office of Document Management received 140,114 pages of translation requests, of which 10,324 pages were identified as duplicate pages, resulting in savings of approximately $836,224. The Section has also established protocols and implemented systems for the sharing and transfer of judicial records between the Tribunal and the Mechanism.

77. The Conference and Language Services Section continued to provide interpretation, translation and court reporting services for the Tribunal, as well as translation services for the Mechanism in Arusha. As at 31 July 2013, the Section had translated approximately 59,000 pages into English, French, Bosnian/Croatian/Serbian, Albanian and Macedonian, while trial support and translation of judgements and other legal documents continued and is still ongoing. The interpretation unit registered close to 3,600 conference interpreter days. The court reporting services produced over 71,000 transcript pages. Interpretation services were also provided for official meetings, witness proofing sessions, and missions away from the seat of the Tribunal, including in the region of the former Yugoslavia.

78. As at 31 July 2013, the Victims and Witnesses Section had assisted 509 witnesses and accompanying support persons travelling to The Hague to give

[2] These figures include an appeal from an acquittal entered pursuant to rule 98 bis of the Rules; cases with both trial and appeal components are counted twice.

evidence. The Section's Protection Unit coordinated professional responses to an increased number of threats to witnesses made before, during and after their appearances to give evidence in Tribunal proceedings, and it worked on relocating protected witnesses. The Section has worked closely with the Mechanism in Arusha to prepare harmonized victim and witness policies and practices.

79. During the reporting period the former Office for Legal Aid and Detention Matters was restructured. Its detention-related functions were transferred to the United Nation Detention Unit and its legal aid functions remained with the renamed Office for Legal Aid and Defence Matters, which continued to administer the Tribunal's legal aid system, overseeing an average of 275 defence team members. Of the 35 accused in trial and appeal proceedings during the reporting period, 31 were found unable or partially unable to remunerate counsel and were thus granted legal aid. Over half of those cases were ranked at the highest complexity level. The Office for Legal Aid and Defence Matters also provided counsel to detained witnesses and administered the appointment and remuneration of *amici curiae*. In compliance with the Tribunal's downsizing efforts, the Office reduced its legal aid budget by 18 per cent from the preceding biennium. In preparation for the transfer of functions to the Mechanism, the Office provided assistance regarding management of the legal aid system.

80. The United Nations Detention Unit continued to provide security and care for 24 detainees under the Tribunal's authority, and preparations were made to ensure satisfactory levels of security and care for detainees held under the authority of the Mechanism. All of the detainees were provided with medical care and any necessary specialist medical assistance. The Detention Unit also continued to facilitate the detainees' presence at court hearings on a daily basis and supervised the provisional releases of a number of detainees. With regard to self-represented accused, the Detention Unit ensured that they were provided with additional storage and office space, computer and database access tailored to the detention environment, and the ability to conduct witness interviews, whether in person or via videoconference. The Detention Unit also accommodated a number of detained witnesses and facilitated contact between detainees and the media where appropriate.

C. Administrative Support Service Division

81. By its resolution 66/239, the General Assembly, having considered the reports of the Secretary-General and the Advisory Committee on Administrative and Budgetary Questions on the proposed programme budget, appropriated $281,036,100 gross for the Tribunal's budget for the biennium 2012-2013.

82. During the biennium 2012-2013, extrabudgetary resources are estimated at $1,880,185, funds which will be utilized for a variety of Tribunal activities. As at 31 July 2013, the Voluntary Fund had received a lifetime total of approximately $51.8 million in cash donations. For the period from 1 August 2012 to 31 July 2013, the Tribunal received and administered $1,032,347 in voluntary cash contributions.

83. The Division of Administration remained actively engaged in downsizing efforts and the second comparative review process, which was formulated in consultation with staff representatives. The approved budget for 2012-2013 features a net reduction of 120 posts.

84. The Division also coordinated the preparation of the proposed budget for the biennium 2014-2015, as well as the formulation of the second budget for the Hague Branch of the Mechanism. A comprehensive administrative closure plan was developed and adopted during the reporting period and, in line with the completion strategy, the Division oversaw the closure of the Zagreb and Pristina field offices at the end of 2012. Finally the Division provided administrative support to assist the establishment of the Mechanism throughout the biennium.

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International Residual Mechanism for Criminal Tribunals

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council the first annual report of the International Residual Mechanism for Criminal Tribunals, submitted by the President of the Mechanism in accordance with article 32 (1) of the statute of the Mechanism (see Security Council resolution 1966 (2010), annex 1) which states that:

> The President of the Mechanism shall submit an annual report of the Mechanism to the Security Council and to the General Assembly.

* A/68/150.

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Letter of transmittal

1 August 2013

I have the honour to submit the first annual report of the International Residual Mechanism for Criminal Tribunals, dated 1 August 2013, to the General Assembly and the Security Council, pursuant to article 32 (1) of the statute of the Mechanism.

(*Signed*) Theodor **Meron**
President

President of the General Assembly
United Nations
New York

President of the Security Council
United Nations
New York

First Annual Report of the International Residual Mechanism for Criminal Tribunals

Summary

The present annual report outlines the activities of the International Residual Mechanism for Criminal Tribunals from 1 July 2012 to 30 June 2013.

On 22 December 2010, the Security Council, by resolution 1966 (2010), established the Mechanism to continue the jurisdiction, rights and obligations and carry out the essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. These functions include providing protection to witnesses, supervising the enforcement of sentences, and managing archives. The Mechanism is also mandated to conduct certain judicial activities.

On 1 July 2012, the Mechanism opened its first branch, located in Arusha, United Republic of Tanzania, and assumed responsibility for a number of essential functions of the International Criminal Tribunal for Rwanda. Over the course of the reporting period, the Mechanism also developed its legal and regulatory framework through the issuance of Practice Directions and other policies, recruited a small number of staff members in keeping with its specified functions, and engaged with Member States on a range of issues.

The President of the Mechanism supervised many issues relating to the establishment and management of the Mechanism, coordinated the work of the Chambers, and decided applications for early release and a request for review of an administrative decision. The Mechanism's Appeals Chamber, the duty judge in Arusha, and the President in his role as pre-appeal judge in the Mechanism's first appeal from judgement also rendered a number of orders and decisions.

The Office of the Prosecutor focused on the activities in its remit, including the tracking of the remaining fugitives indicted by the International Criminal Tribunal for Rwanda, the rendering of assistance to national authorities, and the prosecution of the Mechanism's first appeal.

The Registry was responsible for providing and coordinating a wide range of administrative and judicial support to the Mechanism. In addition, among other things, it ensured the continued provision of protection and support services to witnesses, worked on various aspects of the enforcement of sentences, and undertook activities related to archives management.

During the reporting period, all organs of the Mechanism made preparations for the launch of its second branch, located in The Hague, on 1 July 2013.

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I. Introduction

1. The first annual report of the International Residual Mechanism for Criminal Tribunals outlines the establishment and the activities of the Mechanism for the period from 1 July 2012 to 30 June 2013.

2. On 1 July 2012, the Mechanism opened its branch in Arusha, United Republic of Tanzania, and assumed certain specified responsibilities and functions from the International Criminal Tribunal for Rwanda. During the reporting period, and pursuant to its mandate, the Mechanism has conducted a number of judicial activities and performed functions ranging from the protection of witnesses to responding to requests for assistance from national jurisdictions. The Mechanism has also engaged in extensive preparation for the launch on 1 July 2013 of its branch in The Hague, at which point the Mechanism assumes the corresponding set of responsibilities and functions from the International Tribunal for the Former Yugoslavia. Information about the launch and activities of the Hague branch will be included in the next annual report of the Mechanism.

II. Establishment and activities of the Mechanism

A. Mandate

3. On 22 December 2010, the Security Council, by resolution 1966 (2010), established the Mechanism to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. According to the resolution, the Mechanism continues the jurisdiction, rights and obligations, and essential functions of the two Tribunals.

4. In creating the Mechanism, the Security Council reaffirmed its determination to combat impunity for those responsible for serious violations of international humanitarian law, and underlined the necessity that all persons indicted by the two Tribunals be brought to justice. Accordingly, the Mechanism's mandate includes the trial of fugitives who are among the most senior leaders suspected of being the most responsible for crimes. Since the adoption of the resolution, all fugitives from the International Tribunal for the Former Yugoslavia have been apprehended and transferred to the Tribunal for trial. Among persons indicted by the International Criminal Tribunal for Rwanda, nine individuals are still at large. Three of the nine are expected to be tried by the Mechanism; the cases of the remaining six have been referred to Rwanda for trial.

5. The Mechanism has also been mandated to conduct a number of other judicial activities, consistent with the provisions of its statute and the dates specified in the transitional arrangements. These activities include retrials of cases completed by the two Tribunals, appeals of their judgements and sentences, reviews of their proceedings, and contempt of court and false testimony cases.

6. In addition, the Mechanism has been tasked with assuming the following functions from the two Tribunals, in accordance with its statute and the transitional arrangements: protection of victims and witnesses who have testified in Tribunal or Mechanism cases; management of the archives of the Tribunals and the Mechanism; supervision of the enforcement of Tribunal sentences, including decisions on pardon

or commutation of sentences; responding to requests for assistance from national authorities in relation to the investigation or prosecution of those responsible for serious violations of international humanitarian law in the countries of the former Yugoslavia and Rwanda; and monitoring cases referred to national courts by the two Tribunals and the Mechanism, with the ability to revoke cases where the conditions of referral are no longer being met and it is in the interests of justice to do so.

7. In establishing the Mechanism, the Security Council emphasized that it should be a small, temporary and efficient structure whose functions and size would diminish over time. The Mechanism is mandated to operate for an initial period of four years, and subsequently for periods of two years following reviews of its progress, unless the Council decides otherwise.

B. Organization and principals

8. The statute of the Mechanism provides for two branches: one branch for the International Criminal Tribunal for Rwanda, located in Arusha, United Republic of Tanzania, and one branch for the International Tribunal for the Former Yugoslavia, located in The Hague. The Arusha branch was mandated to commence activities on 1 July 2012, and the Hague branch was mandated to commence activities one year later, on 1 July 2013.

9. The Mechanism consists of three organs, namely, the Chambers, comprising a Trial Chamber for each branch of the Mechanism and an Appeals Chamber common to the two branches of the Mechanism; the Prosecutor, common to the two branches of the Mechanism; and the Registry, common to the two branches of the Mechanism, which provides administrative services for the Mechanism, including the Chambers and the Prosecutor.

10. Each organ is headed by a full-time or permanent principal, common to the two branches.

11. The President of the Mechanism is Judge Theodor Meron. President Meron was elected as a Mechanism judge by the General Assembly and subsequently appointed as the President. The President serves as the head of the Mechanism, and is responsible for, among other things, presiding over plenaries, coordinating the work of the Chambers, and supervising the activities of the Registry. President Meron is the Mechanism's only full-time judge.

12. The Prosecutor for the Mechanism is Hassan Bubacar Jallow, who was appointed in 2012 to a four-year term. The Prosecutor is responsible for the investigation and prosecution of persons indicted by the Tribunals as well as individuals who have knowingly and wilfully interfered in the administration of justice or given false testimony before the Mechanism, the International Criminal Tribunal for Rwanda, or the International Tribunal for the Former Yugoslavia.

13. The Registrar for the Mechanism is John Hocking, who was appointed in 2012 to a four-year term. The Registrar is responsible for the administration and servicing of the two branches of the Mechanism.

14. In an arrangement that promotes efficiency and coordination, and consistent with the transitional arrangements, the President, the Prosecutor and the Registrar are all currently serving in two positions. President Meron is also President of the

International Tribunal for the Former Yugoslavia, Prosecutor Jallow is the serving Prosecutor of the International Criminal Tribunal for Rwanda, and Registrar Hocking is concurrently the Registrar for the International Tribunal for the Former Yugoslavia.

15. The statute of the Mechanism provides for a roster of 25 independent judges. These judges were elected by the General Assembly on 20 December 2011 from a list submitted by the Security Council and following nominations from States Members of the United Nations. In selecting the judges, particular account was taken of candidates' experience as judges of the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia, in order to promote efficiency. As at 18 May 2012, all 25 judges have been sworn in and are capable of assuming Mechanism duties as and when called to do so.

16. Pursuant to the statute, the judges remain on a roster until called by the President to exercise their functions. Judges who have been called to exercise their functions are to be present in Arusha or The Hague only as required; insofar as possible, the judges will carry out their functions remotely. The judges are not remunerated for being on the roster, but only for the days on which they are called to perform judicial duties. Mechanism judges who are concurrently judges of the Tribunals, and thus already receive judicial salaries, are not compensated for their Mechanism work.

17. The roster of judges is composed as follows: Judges Carmel Agius (Malta), Aydin Sefa Akay (Turkey), Jean-Claude Antonetti (France), Florence Arrey (Cameroon), Solomy Balungi Bossa (Uganda), Ivo Nelson de Caires Batista Rosa (Portugal), José Ricardo de Prada Solaesa (Spain), Ben Emmerson (United Kingdom of Great Britain and Northern Ireland), Christoph Flügge (Germany), Burton Hall (Bahamas), Vagn Prüsse Joensen (Denmark), Gberdao Gustave Kam (Burkina Faso), Liu Daqun (China), Susana Gatti Santana (Uruguay), Joseph E. Chiondo Masanche (United Republic of Tanzania), Theodor Meron (United States of America), Bakone Justice Moloto (South Africa), Lee G. Muthoga (Kenya), Aminatta Lois Runeni N'gum (Gambia), Prisca Matimba Nyambe (Zambia), Alphons Orie (Netherlands), Seon Ki Park (Republic of Korea), Mparany Mamy Richard Rajohnson (Madagascar), Patrick Lipton Robinson (Jamaica) and William Hussein Sekule (United Republic of Tanzania).

C. Establishment

18. As mandated, the Mechanism commenced operations at its Arusha branch on 1 July 2012, assuming certain functions inherited from the International Criminal Tribunal for Rwanda.

1. Legal and regulatory framework

19. The Mechanism has developed a structure to govern its activities, mindful of the need to develop rules, procedures and policies that harmonize and build upon the best practices of the two Tribunals.

20. In accordance with article 13 of the statute, on 8 June 2012, the Mechanism judges adopted the Rules of Procedure and Evidence. The Rules were developed by the International Criminal Tribunal for Rwanda and the International Tribunal for

the Former Yugoslavia in conjunction with the Office of Legal Affairs and incorporated comments from the judges, Offices of the Prosecutors, Registries, and Associations of Defence Counsel of both Tribunals, as well as from members of the Security Council.

21. In addition, the Mechanism has adopted key Practice Directions, directives and policies on topics including the filing of motions and briefs before the Mechanism; the assignment and remuneration of defence counsel; the provision of protection and support services to witnesses; the procedures for determining applications for pardon and early release; and the procedure for designating States in which a convicted person will serve his or her sentence. The Mechanism has also adopted standards related to archives and records.

2. Administration, staffing and facilities

22. During the reporting period, administrative services — such as human resources, finance, budget, procurement, logistics, security and information technology services — have been provided to the Mechanism by the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia, under the coordination of the Registrar of the Mechanism.

23. In October 2012, in preparation for the decreasing capabilities of the two Tribunals to continue to support the Mechanism because of their progressive downsizing, the Tribunals and the Mechanism reached consensus on basic requirements for a single, small, self-standing administration for the Mechanism, which will be divided between and will service the two branches. The Mechanism Registry has developed a road map and a list of actions for a step-by-step implementation of this self-standing administration.

24. Pursuant to Security Council resolution 1966 (2010), the Mechanism is to have a small number of staff commensurate with its specified functions. The prompt, fair and transparent recruitment of this small staffing component continues to be an administrative priority. Under the coordination of the Registrar, recruitment has, to the extent possible, been conducted by mixed Mechanism and Tribunal interview panels and central review bodies, with appropriate geographical and gender balance representation. The human resources staff of both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia have shared the technical burden of this exercise.

25. By the end of the reporting period, some 86 per cent of Mechanism positions available from 1 July 2012 have either been filled or are under recruitment. Staff who have joined the Mechanism include nationals of the following Member States: Albania, Australia, Belgium, Burundi, Cameroon, Canada, China, Colombia, Democratic Republic of the Congo, France, India, Italy, Kenya, Mali, Nepal, Netherlands, New Zealand, Rwanda, Senegal, Serbia, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Uganda, United Kingdom, United Republic of Tanzania, United States of America and Zimbabwe. Approximately 85 per cent of the staff of the Mechanism have been recruited from the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia.

26. The Mechanism has reached the gender parity goals set by the Secretary-General, with a 50 per cent gender rate in the Professional category, exceeding the

current 41 per cent average at the Professional level across the United Nations as a whole. A gender and sexual harassment focal point has also been appointed.

27. The Arusha branch is currently co-located with the International Criminal Tribunal for Rwanda, but is expected to move to its new premises in 2016. On 16 January 2013, the Secretary-General submitted his second report on the construction of the new premises (A/67/696). The General Assembly approved the construction of the facility as designed and authorized the level of funding requested by the Mechanism (resolution 67/244 B). The project continues to advance, and the procurement process of retaining an architectural firm is under way. Throughout the project, the Mechanism has worked closely with and benefited greatly from the technical advice of the Office of Central Support Services of the Secretariat. The Mechanism is grateful for the cooperation of the Government of the United Republic of Tanzania, which has offered land and connection to facilities, such as electricity, water and a drainage system, at no cost.

D. Coordination Council

28. Pursuant to Mechanism rule 25, the Mechanism Coordination Council is composed of the President, the Prosecutor and the Registrar, and meets on an ad hoc basis to coordinate the activities of the three organs of the Mechanism. The Council has met to discuss, inter alia, issues relating to the establishment of the Mechanism, the transfer of functions from the two Tribunals, budgetary matters, the regulatory framework, and other matters of common concern. The Coordination Council has also held a number of joint meetings with the Coordination Council of the International Criminal Tribunal for Rwanda, to discuss cross-cutting issues relating to the provision of services, budgetary matters, and the transition of functions to the Arusha branch of the Mechanism.

E. Rules Committee

29. The President has assigned two Mechanism judges to compose the Mechanism Rules Committee, Judge Vagn Joensen and Judge Carmel Agius, who are chairs of the Rules Committees of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, respectively. The Mechanism Rules Committee has received a number of proposals for amendments to the Rules.

F. Coordination with the Tribunals

30. During the reporting period, the Mechanism has coexisted with both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and has benefited greatly from its two predecessor institutions, receiving from them significant operational and administrative support. The staff of the three institutions have also worked closely and cooperated on a regular basis, sharing institutional knowledge, expertise and lessons learned.

III. Activity of the President and the Chambers

A. Principal activities of the President

31. The President, in his capacity as the head of the Mechanism, has been deeply involved in the many issues relating to the establishment and management of the Mechanism. He has developed and adopted Practice Directions, held regular meetings with the Registrar on operational and managerial matters, and represented the Mechanism in a wide variety of forums.

32. As mandated by the statute, the President has also submitted two six-monthly reports on the progress of the Mechanism to the Security Council, and he has twice briefed the Council on the work of the Mechanism, in December 2012 and June 2013.

33. The President made his first official visit to Rwanda in December 2012, where he met with Rwandan authorities and discussed issues relating to the work of the Mechanism. He has also provided briefings on the activities of the Mechanism to the diplomatic communities in the Netherlands, Rwanda and the United Republic of Tanzania.

34. In his judicial capacity, the President has issued two decisions on applications for early release, received from Paul Bisengimana and Omar Serushago. He has issued one decision on a request for the review of an administrative decision by the Registrar of the Mechanism. The President has also assigned a number of matters to a single judge and to the Appeals Chamber. In addition, the President has presided over the Appeals Chamber, and is serving as pre-appeal judge on the Mechanism's first appeal from judgement, in the case of *The Prosecutor v. Augustin Ngirabatware*.

B. Principal activities of the single judge/duty judge

35. On 2 July 2012, the President assigned Judge Vagn Joensen as duty judge at the Arusha branch. Judge Joensen is also the President of the International Criminal Tribunal for Rwanda and, as a result, does not require remuneration for his Mechanism duties.

36. During the reporting period, Judge Joensen, in his capacity as Mechanism duty judge or single judge, has dealt with a number of motions, including requests to amend indictments and to reissue arrest warrants on behalf of the Mechanism for three fugitives from the International Criminal Tribunal for Rwanda, Augustin Bizimana, Félicien Kabuga and Protais Mpiranya. He has also considered allegations of contempt arising out of the case of *The Prosecutor v. Augustin Ngirabatware*. In addition, Judge Joensen has issued six decisions on requests for variation of witnesses' protective measures for the use of Rwanda Tribunal materials in proceedings in national jurisdictions.

C. Principal activities of the Appeals Chamber

37. During the reporting period, the Appeals Chamber has been seized of one appeal from judgement, concerning the case of Augustin Ngirabatware. A trial

chamber of the International Criminal Tribunal for Rwanda convicted Mr. Ngirabatware, a former Minister of Planning in Rwanda, of genocide, direct and public incitement to commit genocide, and rape as a crime against humanity on 20 December 2012 and sentenced him to 35 years of imprisonment.[1] Mr. Ngirabatware filed his notice of appeal against the trial judgement on 9 April 2013 and the briefing is in progress.

38. In addition, the Appeals Chamber has been seized of one appeal challenging a decision of the International Criminal Tribunal for Rwanda to refer the case of Phénéas Munyarugarama to Rwanda for trial and several other requests and appeals. The Appeals Chamber has rendered one decision in the *Munyarugarama* matter, one interlocutory appeal decision, one decision related to a post-appeal request, and seven pre-appeal orders and decisions.

IV. Activity of the Office of the Prosecutor

A. Establishment and organization of the Office

39. The Arusha branch of the Office of the Prosecutor is fully functional and has, since the commencement of operations on 1 July 2012, been discharging its mandate with respect to its various activities. These include the tracking of fugitives, the rendering of assistance to national authorities, the monitoring of cases referred to national jurisdictions, the updating of fugitive files in anticipation of arrest, and the prosecution of an appeal and related litigation before the Mechanism Appeals Chamber.

40. Throughout the reporting period, the Office of the Prosecutor has benefited immensely from the support of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda in ensuring a smooth transition of functions and activities. Similarly, the Prosecutor has received the cooperation of the principals of the International Tribunal for the Former Yugoslavia and the Mechanism in planning for the commencement of the Hague branch of the Office of the Prosecutor on 1 July 2013 and ensuring a smooth transition of functions and responsibilities.

1. Staffing

41. The 14 core staff of the Arusha branch of the Office of the Prosecutor were recruited and assumed office during the reporting period. The staff comprise three Investigators, one Crime Analyst, and two Language Assistants, all based in Kigali, as well as one Senior Legal Officer, one Legal Officer, one Legal Adviser, one Administrative Officer, one Documents Control Assistant and two Administrative Assistants stationed in Arusha.

42. In addition, the Prosecutor has designated three other prosecution staff of the International Criminal Tribunal for Rwanda to formally double-hat for the Mechanism during their respective tenures at the Tribunal. These include a Special Assistant to the Prosecutor, an Investigator and a Documents Control Assistant. In order to ensure a smooth transition of functions and activities this staff complement has been supported, where necessary, by 52 Professional double-hatting staff

[1] The written judgement was issued on 21 February 2013.

members of the Tribunal designated by the Prosecutor under article 14 (3) of the statute, as an interim measure.

43. The Prosecutor has recruited an ad hoc appeals team to assume primary responsibility for handling the appeal from judgement and sentence in the case of *Ngirabatware*. The team consists of one Senior Appeals Counsel, one Appeals Counsel, one Assistant Appeals Counsel and one Associate Appeals Counsel.

44. The Prosecutor is also preparing a roster of potential staff for his office, to be recruited in the event of an arrest and subsequent trial of any or all of the three fugitives who are designated to be tried by the Mechanism.

2. Preparations for the Hague Office

45. During the reporting period, the Office of the Prosecutor also began preparation for the establishment of the Hague branch of the Office on 1 July 2013. The Prosecutor commenced the planning and preparatory work in consultation with senior management of the Office of the Prosecutor and the Registry of the International Tribunal for the Former Yugoslavia. This involved initiating the recruitment process for the prosecution core staff, agreeing on the double-hatting support expected by the Mechanism Office of the Prosecutor from the Tribunal Office of the Prosecutor in the current biennium, and determining the workload and resource requirements for the next biennium.

B. Fugitive tracking

46. On 1 July 2012, the responsibility for tracking the remaining fugitives from the International Criminal Tribunal for Rwanda devolved to the Mechanism. The arrest and prosecution of three fugitives, namely, Augustin Bizimana, Félicien Kabuga and Protais Mpiranya, is a priority of the Office of the Prosecutor. The Office of the Prosecutor has intensified efforts at tracking these fugitives, placing particular focus on the Great Lakes and southern African regions. The Office of the Prosecutor continues to receive the support of INTERPOL, the United States Department of State through its War Crimes Rewards Program, international organizations, and a number of Member States.

47. The Office of the Prosecutor is also required under article 28 (3) of the statute to render assistance, where appropriate, in the tracking of the remaining six fugitives from the International Criminal Tribunal for Rwanda, whose cases have been referred to Rwanda. The Mechanism website now features a page entitled "Searching for the fugitives", which includes contact information for the Office of the Prosecutor and a link to the webpage of the United States War Crimes Rewards Program.

C. Assistance to national jurisdictions

48. At the Arusha branch, the responsibility for servicing foreign requests for assistance was formally transferred to the Mechanism on 1 July 2012. During the reporting period, the Office of the Prosecutor has responded to 92 requests for assistance from 16 Member States and international organizations.

49. The Prosecutor will shortly issue a regulation governing requests for assistance to the Office of the Prosecutor, and will make guidelines available on the Mechanism website to assist national authorities seeking to access confidential material held by the Tribunals or the Mechanism, in accordance with the Mechanism's Practice Direction on the procedure for the variation of protective measures pursuant to rule 86 (H).

D. Preservation and management of the archives

50. On 2 July 2012, the Prosecutor handed over to the Mechanism Registrar an archive of 27 completed prosecution case files. Materials from the Office of the Prosecutor of the International Criminal Tribunal for Rwanda that are no longer in active use will be transferred to the Mechanism archives on an ongoing basis. The remainder of the archives of the Office of the Prosecutor of that Tribunal are expected to be transferred to the Mechanism upon completion of all the Tribunal appeals and related litigation. In the meantime, the Mechanism Office of the Prosecutor has full access to the active records of its counterpart at the International Criminal Tribunal for Rwanda.

E. Monitoring of cases transferred to national jurisdictions

51. On 1 July 2012 the Office of the Prosecutor assumed certain monitoring functions for cases transferred by the International Criminal Tribunal for Rwanda to national jurisdictions. The monitors appointed by the Prosecutor of the Tribunal to monitor the cases of *Bucyibaruta* and *Munyeshyaka* transferred to France in 2007 and the case of *Uwinkindi* transferred to Rwanda in 2012 have been reporting to the Mechanism Prosecutor.

52. In respect of the cases transferred to France, inquiries are now reported to have substantially progressed, and it is expected that the cases will be expeditiously concluded once trials commence. Similarly, the *Uwinkindi* case referred to Rwanda is before the Kigali High Court. Preliminary proceedings are in progress and, subject to the determination of pre-trial applications made by the accused, the trial proceedings are anticipated to be completed expeditiously.

53. Following the decision on 3 May 2013 of the Appeals Chamber of the International Criminal Tribunal for Rwanda upholding the referral of the case of *Munyagishari* to Rwanda for trial, the Prosecutor appointed a monitor to observe the proceedings in that case.

V. Activities of the Registry

54. The Registry is responsible for the provision of legal, judicial, policy, diplomatic and administrative support to all Mechanism operations.

55. The Registry is at the service of a wide range of individuals and entities, including judges and parties, Member States and international organizations, witnesses and convicted persons. As a result, the Registry provides assistance to national jurisdictions, offers protection and support services to witnesses, monitors various aspects of the enforcement of sentences, administers the Mechanism's legal

aid scheme, makes arrangements for the monitoring of cases referred to national jurisdictions for trial, explains the mandate of the Mechanism, and manages archives and records. In addition, the Registry coordinates or provides the entire spectrum of administrative services from human resources to security, procurement to finance and budget, information technology and general services to health services. The Registry also plays a significant role in the Mechanism's policymaking and its management.

56. The Registry has played a key role in the commencement of the Arusha branch and the preparations for the opening of the Hague branch. It has contributed to a smooth transition by ensuring that core functions are transferred to the Mechanism without gaps in the provision of services, producing governance documents, and engaging in targeted awareness-raising campaigns among interested groups and entities.

A. Support for judicial activities

57. To enable the Mechanism to conduct its judicial activities, the Registrar has issued a number of governance instruments relating to the assignment and remuneration of defence counsel as well as to judicial filings.

58. The Registry has also supported judicial activities by processing over 7,000 pages of judicial filings, assigning and remunerating defence teams, and providing translations of correspondence and judicial documents.

59. To ensure that the Mechanism is able to rapidly expand its staffing component in the event of sudden judicial activity, for instance following the capture of a fugitive, the Registry is coordinating the creation of rosters of qualified potential staff from both inside and outside the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. This approach complies with the United Nations rules on staff selection. A number of ad hoc staff have already been recruited to assist with ongoing judicial activity.

B. Support for other mandated activities

1. Witness support and protection

60. Pursuant to its statute and the transitional arrangements, on 1 July 2012, the Mechanism became responsible for witness support and protection functions in relation to thousands of protected witnesses who have testified in cases completed by the International Criminal Tribunal for Rwanda.

61. The Arusha branch of the Witness Support and Protection unit continued to provide the same level of services previously offered by the Tribunal, while streamlining their provision and improving their efficiency. For instance, the Witness Support and Protection unit has conducted a survey among witnesses in Rwanda to ensure that such services meet the actual needs of witnesses. In addition, it has developed strategies that are currently being implemented to further strengthen the management and safekeeping of confidential witness information.

62. During the reporting period, the Witness Support and Protection unit has handled protection issues not only in Rwanda but also in the Great Lakes region,

from urban centres to refugee camps. It has continued to collaborate closely with the relevant authorities to ensure prompt and effective threat assessments, and to coordinate responses to witness security concerns, consistent with judicial protection orders.

2. Archives and records management

63. Under article 27 of its statute, the Mechanism is responsible for the preservation and management of, and access to, the archives of the two Tribunals. Pursuant to the statute, the archives of the International Criminal Tribunal for Rwanda are to be located in Arusha, and those of the International Tribunal for the Former Yugoslavia in The Hague.

64. The archives of the two Tribunals constitute an unparalleled collection of information regarding the conflicts in Rwanda and the former Yugoslavia. They consist of approximately 15,000 linear metres of physical materials, nearly three petabytes of data, and tens of thousands of hours of audiovisual recordings.

65. The Mechanism Archives and Records Section has offered guidance to the Tribunals in the preparation of their records for transfer to the custody of the Mechanism. The Section has assumed responsibility for the central records centre of the International Tribunal for the Former Yugoslavia. In Arusha, the physical custody of the records of the International Criminal Tribunal for Rwanda remains with the Tribunal, pending the completion of interim record centres.

66. The Mechanism Archives and Records Section has also engaged in the review and development of policies and guidelines on various aspects of record management, including the operations of record centres. In addition, it has begun investigating the technical requirements for a trusted digital repository for the preservation of the digital archives, in order to facilitate both their long-term preservation and access for current and future generations.

3. Enforcement of sentences

67. Pursuant to its statute, the Mechanism on 1 July 2012 assumed jurisdiction over the enforcement of sentences pronounced by the International Criminal Tribunal for Rwanda.

68. The Arusha branch of the Registry began to review enforcement of sentence agreements previously entered into by the International Criminal Tribunal for Rwanda (and which apply *mutatis mutandis* to the Mechanism) in order to ensure that they meet the needs of the Mechanism. The Registry has also begun exploring the possibility of entering into enforcement of sentence agreements with additional Member States. The Mechanism is grateful to those Member States that have expressed an interest in discussing the possibility of entering into an enforcement of sentence agreement.

69. In November 2012, the Mechanism engaged the services of an independent expert in prison management to assess the needs of the prisons in Benin and Mali that are enforcing sentences of the International Criminal Tribunal for Rwanda and to develop context-based recommendations. Many of those recommendations are currently being implemented.

70. The Mechanism has also regularly sought advice from the Department of Safety and Security and the designated official in Mali regarding the security situation in Mali, where over half of the sentences pronounced by the International Criminal Tribunal for Rwanda are currently being enforced.

4. Assistance to national jurisdictions

71. During the reporting period, the Registry at the Arusha branch facilitated requests for assistance from national authorities conducting investigations, prosecutions and trials of individuals charged in relation to the genocide in Rwanda. For example, the Registry obtained waivers of protective measures from witnesses, handled requests to question detainees and, upon judicial authorization, retrieved and transmitted confidential material requested by national authorities.

5. Monitoring of referred cases

72. In accordance with the mandate of the Mechanism to monitor cases referred to national courts by the International Criminal Tribunal for Rwanda, as set out in article 6 (5) of the statute, the Registry has approached international and regional organizations to assist with the monitoring of the cases referred by the Tribunal to Rwanda (including *Uwinkindi*) as well as the two cases referred to France (*Bucyibaruta* and *Munyeshyaka*). Pending the conclusion of the discussions and the establishment of monitoring arrangements, the Mechanism has interim monitoring arrangements in place, thanks to the assistance of the Tribunal. Public monitoring reports are posted on the Mechanism website.

6. External relations and information-sharing

73. During the reporting period, the Registry has engaged extensively with a number of Member States in order to carry out its mandate with respect to functions such as the enforcement of sentences, monitoring of referred cases, and protection of witnesses. In particular, the Mechanism has engaged with the Government of Rwanda on a number of issues, and the Registrar undertook missions to Kigali to facilitate this cooperation. A similar policy of engagement and cooperation with the States of the former Yugoslavia has been adopted in anticipation of the opening of the Hague branch.

74. The Registry launched the Mechanism's website (unmict.org) in tandem with the opening of its Arusha branch. In its first year, the website has received over 100,000 visitors. The website explains the Mechanism's mandate and provides information about its operations in four languages (English, French, Kinyarwanda and Bosnian/Croatian/Serbian), to ensure that this information is more accessible to individuals in Rwanda and the former Yugoslavia.

75. Over the past year, the Mechanism has also shared its experience and best practices during a capacity-building workshop with a delegation from the Kenya Witness Protection Agency. It also undertook a series of presentations and prepared detailed correspondence to promote awareness among Member States, international organizations, and other affected parties regarding the establishment and mandate of the Mechanism.

VI. Conclusion

76. Consistent with resolution 1966 (2010) and its statutory mandate, the Mechanism became operational on 1 July 2012 with the commencement of the Arusha branch. It was a complex process. Preparation by Mechanism officials, and the extensive cooperation and assistance received from the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia, and other entities, including the Office of Legal Affairs, helped to ensure a smooth start-up. The extensive preparations made for the launch of the Hague branch on 1 July 2013 were designed to ensure a similar result.

77. During its first year of existence, the Mechanism has been engaged in fulfilling all aspects of its mandate, from conducting judicial activities to performing essential functions such as ensuring the protection of witnesses. Moving into its second year of operation, the Mechanism will continue to build upon the work of its predecessors and carry out its mandated mission.